

(ii) The information derived from the security testing is used or maintained in a manner that does not facilitate copyright infringement or a violation of applicable law.

(5) Computer programs protected by dongles that prevent access due to malfunction or damage and which are obsolete. A dongle shall be considered obsolete if it is no longer manufactured or if a replacement or repair is no longer reasonably available in the commercial marketplace.

(6) Literary works distributed in ebook format when all existing ebook editions of the work (including digital text editions made available by authorized entities) contain access controls that prevent the enabling either of the book's read-aloud function or of screen readers that render the text into a specialized format.

(c) *Definition.* “Specialized format,” “digital text” and “authorized entities” shall have the same meaning as in 17 U.S.C. 121.

[65 FR 64574, Oct. 27, 2000, as amended at 68 FR 62018, Oct. 31, 2003; 71 FR 68479, Nov. 27, 2006; 74 FR 55139, Oct. 27, 2009; 75 FR 43839, July 27, 2010; 75 FR 47465, Aug. 6, 2010]

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

Sec.

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APPENDIX A TO PART 202—TECHNICAL GUIDELINES REGARDING SOUND PHYSICAL CONDITION

APPENDIX B TO PART 202—“BEST EDITION” OF PUBLISHED COPYRIGHTED WORKS FOR THE COLLECTIONS OF THE LIBRARY OF CONGRESS

AUTHORITY: 17 U.S.C. 408(f), 702

EDITORIAL NOTE: Nomenclature changes to part 202 appear at 76 FR 27898, May 13, 2011.

§ 202.1 Material not subject to copyright.

The following are examples of works not subject to copyright and applications for registration of such works cannot be entertained:

(a) Words and short phrases such as names, titles, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering or coloring; mere listing of ingredients or contents;

(b) Ideas, plans, methods, systems, or devices, as distinguished from the particular manner in which they are expressed or described in a writing;

(c) Blank forms, such as time cards, graph paper, account books, diaries, bank checks, scorecards, address books, report forms, order forms and the like, which are designed for recording information and do not in themselves convey information;

(d) Works consisting entirely of information that is common property containing no original authorship, such as, for example: Standard calendars, height and weight charts, tape measures and rulers, schedules of sporting events, and lists or tables taken from public documents or other common sources.

(e) Typeface as typeface.

[24 FR 4956, June 18, 1959, as amended at 38 FR 3045, Feb. 1, 1973; 57 FR 6202, Feb. 21, 1992]

§ 202.2 Copyright notice.

(a) *General.* (1) With respect to a work published before January 1, 1978, copyright was secured, or the right to secure it was lost, except for works seeking *ad interim* copyright, at the date of

publication, *i.e.*, the date on which copies are first placed on sale, sold, or publicly distributed, depending upon the adequacy of the notice of copyright on the work at that time. The adequacy of the copyright notice for such a work is determined by the copyright statute as it existed on the date of first publication.

(2) If before January 1, 1978, publication occurred by distribution of copies or in some other manner, without the statutory notice or with an inadequate notice, as determined by the copyright statute as it existed on the date of first publication, the right to secure copyright was lost. In such cases, copyright cannot be secured by adding the notice to copies distributed at a later date.

(3) Works first published abroad before January 1, 1978, other than works for which *ad interim* copyright has been obtained, must have borne an adequate copyright notice. The adequacy of the copyright notice for such works is determined by the copyright statute as it existed on the date of first publication abroad.

(b) *Defects in notice.* Where the copyright notice on a work published before January 1, 1978, does not meet the requirements of title 17 of the United States Code as it existed on December 31, 1977, the Copyright Office will reject an application for copyright registration. Common defects in the notice include, among others the following:

(1) The notice lacks one or more of the necessary elements (*i.e.*, the word "Copyright," the abbreviation "Copr.," or the symbol ©, or, in the case of a sound recording, the symbol ℗; the name of the copyright proprietor, or, in the case of a sound recording, the name, a recognizable abbreviation of the name, or a generally known alternative designation, of the copyright owner; and, when required, the year date of publication);

(2) The elements of the notice are so dispersed that a necessary element is not identified as a part of the notice; in the case of a sound recording, however, if the producer is named on the label or container, and if no other name appears in conjunction with the notice, his name will be considered a part of the notice;

(3) The notice is not in one of the positions prescribed by law;

(4) The notice is in a foreign language;

(5) The name in the notice is that of someone who had no authority to secure copyright in his name;

(6) The year date in the copyright notice is later than the date of the year in which copyright was actually secured, including the following cases:

(i) Where the year date in the notice is later than the date of actual publication;

(ii) Where copyright was first secured by registration of a work in unpublished form, and copies of the same work as later published without change in substance bear a copyright notice containing a year date later than the year of unpublished registration;

(iii) Where a book or periodical published abroad, for which *ad interim* copyright has been obtained, is later published in the United States without change in substance and contains a year date in the copyright notice later than the year of first publication abroad:

Provided, however, That in each of the three foregoing types of cases, if the copyright was actually secured not more than one year earlier than the year date in the notice, registration may be considered as a doubtful case.

(7) A notice is permanently covered so that it cannot be seen without tearing the work apart;

(8) A notice is illegible or so small that it cannot be read without the aid of a magnifying glass: *Provided, however,* That where the work itself requires magnification for its ordinary use (e.g., a microfilm, microcard or motion picture) a notice which will be readable when so magnified, will not constitute a reason for rejection of the claim;

(9) A notice is on a detachable tag and will eventually be detached and discarded when the work is put in use;

(10) A notice is on the wrapper or container which is not a part of the work and which will eventually be removed and discarded when the work is put to use; the notice may be on a container which is designed and can be expected to remain with the work;

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(11) The notice is restricted or limited exclusively to an uncopyrightable element, either by virtue of its position on the work, by the use of asterisks, or by other means.

[24 FR 4956, June 18, 1959; 24 FR 6163, July 31, 1959, as amended at 37 FR 3055, Feb. 11, 1972; 46 FR 33249, June 29, 1981; 46 FR 34329, July 1, 1981; 60 FR 34168, June 30, 1995; 66 FR 34373, June 28, 2001; 66 FR 40322, Aug. 2, 2001]

§ 202.3 Registration of copyright.

(a) *General.* (1) This section prescribes conditions for the registration of copyright, and the application to be made for registration under sections 408 and 409 of title 17 of the United States Code, as amended by Pub. L. 94–553.

(2) For the purposes of this section, the terms *audiovisual work*, *compilation*, *copy*, *derivative work*, *device*, *fixation*, *literary work*, *motion picture*, *phonorecord*, *pictorial*, *graphic and sculptural works*, *process*, *sound recording*, and their variant forms, have the meanings set forth in section 101 of title 17. The term *author* includes an employer or other person for whom a work is “made for hire” under section 101 of title 17.

(3) For the purposes of this section, a copyright *claimant* is either:

- (i) The author of a work;
- (ii) A person or organization that has obtained ownership of all rights under the copyright initially belonging to the author.¹

(b) *Administrative classification and application forms*—(1) *Classes of works.* For the purpose of registration, the Register of Copyrights has prescribed the classes of works in which copyright may be claimed. These classes, and examples of works which they include, are as follows:

(i) *Class TX: Nondramatic literary works.* This class includes all published and unpublished nondramatic literary works. Examples: Fiction; nonfiction; poetry; textbooks; reference works; directories; catalogs; advertising copy; and compilations of information.

¹This category includes a person or organization that has obtained, from the author or from an entity that has obtained ownership of all rights under the copyright initially belonging to the author, the contractual right to claim legal title to the copyright in an application for copyright registration.

(ii) *Class PA: Works of the performing arts.* This class includes all published and unpublished works prepared for the purpose of being performed directly before an audience or indirectly by means of a device or process. Examples: Musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; and motion pictures and other audiovisual works.

(iii) *Class VA: Works of the visual arts.* This class includes all published and unpublished pictorial, graphic, and sculptural works. Examples: Two dimensional and three dimensional works of the fine, graphic, and applied arts; photographs; prints and art reproductions; maps, globes, and charts; technical drawings, diagrams, and models; and pictorial or graphic labels and advertisements.

(iv) *Class SR: Sound recordings.* This class includes all published and unpublished sound recordings fixed on and after February 15, 1972. Claims to copyright in literary, dramatic, and musical works embodied in phonorecords may also be registered in this class under paragraph (b)(4) of this section if:

(A) Registration is sought on the same application for both a recorded literary, dramatic, or musical work and a sound recording;

(B) The recorded literary, dramatic, or musical work and the sound recording are embodied in the same phonorecord; and

(C) The same claimant is seeking registration of both the recorded literary, dramatic, or musical work and the sound recording.

(v) *Class SE: Serials.* A serial is a work issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely. This class includes periodicals; newspapers; annuals; and the journals, proceedings, transactions, etc. of societies.

(2)(i) *Application forms.* For the purpose of registration, The Register of Copyrights has prescribed the basic forms to be used for all applications submitted on and after January 1, 1978. Each form corresponds to a class set forth in paragraph (b)(1) of this section and is so designated (“Form TX”;